

BILL ANALYSIS

Senate Research Center

H.B. 3446
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas manufacturers have stated a need for a unified branding program to promote Texas-made products. The program would have a wide-ranging constituency with a common goal of competing and excelling in a global marketplace. The Texas manufacturing sector is strong but strives to maintain a solid market share against competition from cheap labor in India, China, and other nations. According to the Texas Workforce Commission, Texas' economy lost 181,000 manufacturing jobs from 1999 to 2004. Identification of products made in Texas allows consumers to make a choice to support Texas manufacturers.

H.B. 3446 establishes a "Genuine Texas" program in the governor's office of economic development (office), whereby good manufactured in Texas can be identified with a "Genuine Texas" logo. The office would administer the program by developing and expanding markets for Texas manufactured products, developing promotional campaigns, and adopting manufactured quality standards and other criteria for use of the logo.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the governor's office of economic development in SECTION 1 (Section 490C.052, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle F, Title 4, Government Code, by adding Chapter 490C, as follows:

CHAPTER 490C. PROMOTION OF TEXAS MANUFACTURED PRODUCTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 490C.001. DEFINITIONS. Defines "Genuine Texas program," "Texas manufactured product," and "office."

[Reserves Sections 490C.002-490C.050 for expansion.]

SUBCHAPTER B. POWERS AND DUTIES OF OFFICE

Sec. 490C.051. ESTABLISHMENT OF GENUINE TEXAS PROGRAM. Authorizes the governor's office of economic development (office) to establish and administer a program in accordance with this chapter to develop and expand markets for Texas manufactured products.

Sec. 490C.052. RULEMAKING AUTHORITY. Authorizes the office to adopt rules and establish procedures to administer this chapter.

Sec. 490C.053. DUTIES OF OFFICE. Requires the office to perform certain duties if the office establishes a Genuine Texas program (program) under this chapter.

Sec. 490C.054. FEE FOR USE OF LOGO. Authorizes the office to require a person to pay a fee not to exceed \$100 a year for use of the logo designed under Section 490C.053(1) to cover the costs of administering the program.

Sec. 490C.055. PROMOTIONAL EVENTS. Authorizes the office to use available money to purchase food and beverages for a promotional event.

Sec. 490C.056. SALE OF PROMOTIONAL ITEMS. (a) Authorizes the office to sell or contract for the sale of items, including clothing, posters, and banners, to promote Texas manufactured products.

(b) Authorizes the office to use its Internet website to advertise and sell the items described by Subsection (a).

Sec. 490C.057. ADVISORY BOARD. (a) Requires the office to appoint an advisory board to assist in the implementation of the program, if the program is established.

(b) Provides that a member of the advisory board serves at the pleasure of the office.

(c) Provides that a member of the advisory board serves without compensation but is entitled to reimbursement for actual expenses incurred in the performance of official board duties, subject to approval of the office.

(d) Provides that Chapter 2110 (State Agency Advisory Committees) does not apply to the advisory board.

(e) Requires the advisory board, at the request of the office, to advise the office on the adoption of rules and the establishment of procedures relating to the administration of the program.

(f) Requires the office to provide the advisory board with the staff necessary to assist the board in carrying out board duties under this section.

[Reserves Sections 490C.058-490C.100 for expansion.]

SUBCHAPTER C. ENFORCEMENT

Sec. 490C.101. VIOLATION. Sets forth certain actions that constitute violations of this chapter.

Sec. 490C.102. SUSPENSION OR FORFEITURE OF RIGHT TO USE LOGO. (a) Authorizes the office to temporarily suspend or permanently forfeit the right of a person who violates this chapter to use the logo of the program.

(b) Authorizes the office to make certain considerations before suspending or forfeiting a person's right to use the logo.

Sec. 490C.103. ADMINISTRATIVE PENALTY. Authorizes the office to impose an administrative penalty not to exceed \$500 against a person who violates this chapter. Provides that a proceeding to impose the administrative penalty is a contested case under Chapter 2001 (Administrative Procedure).

Sec. 490C.104. CIVIL PENALTY. Provides that a person who violates this chapter is subject to a civil penalty not to exceed \$500 for each violation.

Sec. 490C.105. CALCULATING AMOUNT OF ADMINISTRATIVE OR CIVIL PENALTY. (a) Authorizes each day a violation continues to be considered a separate violation for purposes of an administrative or civil penalty under this subchapter.

(b) Requires the amount of an administrative or civil penalty to be based on certain factors.

Sec. 490C.106. ENFORCEMENT OF ADMINISTRATIVE OR CIVIL PENALTY. (a) Authorizes the enforcement of an administrative penalty under this section to be stayed during the time the order is under judicial review if the person pays the penalty to the clerk of the court or files a supersedeas bond with the court in the amount of the penalty. Authorizes a person who cannot afford to pay the penalty or file the bond to stay the enforcement by filing an affidavit in the manner required by the Texas Rules of Civil Procedure for a party who cannot afford to file security for costs, subject to the right of the office to contest the affidavit as provided by those rules.

(b) Authorizes the attorney general or the county or district attorney of the county in which the violation is alleged to have occurred, at the request of the office, to file suit to collect the civil penalty.

Sec. 490C.107. DEPOSIT OF MONEY. Requires an administrative or civil penalty collected under this subchapter to be deposited to the credit of the general revenue fund.

Sec. 490C.108. INJUNCTIVE RELIEF. (a) Authorizes the attorney general or the county or district attorney of the county in which the alleged violation is threatened to occur or is occurring, at the request of the office, to file suit for the appropriate injunctive relief to prevent or abate a violation of this chapter.

(b) Provides that the venue for an action brought under this section is in Travis County.

SECTION 2. Effective date: September 1, 2007.